UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,236	11/05/2003	Donald Hetzel	SENS0002	7940

22862 7590 05/31/2007

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

EXAMINER	
SIMS, JASON M	
ART UNIT	**PAPER NUMBER**
1631	

MAIL DATE	DELIVERY MODE
05/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/702,236	HETZEL ET AL.	
	Examiner	Art Unit	
	Jason M. Sims	1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 March 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,8-17,21-26,28-30,32 and 33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,8-17,21-26,28-30,32 and 33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/9/2007 has been entered.

Applicant's cancellation of claim 31 in the amendment filed 3/9/2007 is acknowledged.

Claims 1-6, 8-17, 21-26, 28-30, and 32-33 are the current claims hereby under examination.

Claim Rejections - 35 USC § 112

The rejection of claims 1-6, 8-17, 21-26, 28-33 under 35 USC 112 for the vague and indefinite use of the terms "normal" and "pre-diabetic" has been withdrawn because of applicant's amendment and arguments pointing to the specification where pre-diabetes is defined.

The following rejections have been newly made.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-6, 8-17, 21-26, 28-30, and 32-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 contains the wording "abstract representation," which has been deemed as vague and indefinite. It is unclear as to what exactly the wording "abstract representation" refers. Clearer claim wording is required.

Claim 32 contains the wording "unsupervised classification," which has been deemed as vague and indefinite. It is unclear as to what exactly the wording "unsupervised classification" refers. Clearer claim wording is required.

Claim 33 contains the wording "supervised classification," which has been deemed as vague and indefinite. It is unclear as to what exactly the wording "supervised classification" refers. Clearer claim wording is required.

Claims 2-6, 8-14, 21-26, and 28-30 are rejected as being dependent from a rejected claim.

Specification

The objection to the specification for containing a hyperlink has been withdrawn due to applicant's deletion of said hyperlink found in said specification.

Claim Rejections - 35 USC § 101

Applicant's arguments filed 3/9/2007 with respect to the rejection of claims 1-6, 8-17, 21-22, and 29-33 under 35 USC 101 have been fully considered but they are not persuasive.

Applicant argues that the amendment to the preamble, now citing a computer implemented method and the step of measuring being performed using a glucose concentration analyzer causes the rejection to be overcome.

Applicant's argument is not persuasive as a computer implemented method is not necessarily statutory. The requirements for causing a computer implemented method to be considered statutory have been stated below in the instant office action under the rejection of claims under 35 USC 101. Additionally, the use of a glucose concentration analyzer does not cause the method to become statutory because the method needs to result in a physical transformation, which has also been stated below in the instant office action under the rejection of claims under 35 USC 101.

The following rejection is being maintained with the addition of several claims not previously rejected under 35 USC 101, which have now been found to also be non-statutory subject matter.

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-6, 8-17, 21-26, 28-30, and 32-33 are drawn to a process. A statutory process must include a final resulting step of a physical transformation, or produce a useful, concrete, and tangible result (State Street Bank & Trust Co. v. Signature Financial Group Inc. CAFC 47 USPQ2d 1596 (1998), AT&T Corp. v. Excel Communications Inc. (CAFC 50 USPQ2d 1447 (1999)). The instant claims do not result in a physical transformation, thus the Examiner must determine if the instant claims include a useful, concrete, and tangible result.

As noted in State Street Bank & Trust Co. v. Signature Financial Group Inc. CAFC 47 USPQ2d 1596 (1998) below, the statutory category of the claimed subject

matter is not relevant to a determination of whether the claimed subject matter produces a useful, concrete, and tangible result:

The question of whether a claim encompasses statutory subject matter should not focus on *which* of the four categories of subject matter a claim is directed to 9 -- process, machine, manufacture, or composition of matter--but rather on the essential characteristics of the subject matter, in particular, its practical utility. Section 101 specifies that statutory subject matter must also satisfy the other "conditions and requirements" of Title 35, including novelty, nonobviousness, and adequacy of disclosure and notice. *See In re Warmerdam*, 33 F.3d 1354, 1359, 31 USPQ2d 1754, 1757-58 (Fed. Cir. 1994). For purpose of our analysis, as noted above, claim 1 is directed to a machine programmed with the Hub and Spoke software and admittedly produces a "useful, concrete, and tangible result." *Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1557. This renders it statutory subject matter, even if the useful result is expressed in numbers, such as price, profit, percentage, cost, or loss.

In determining if the claimed subject matter produces a useful, concrete, and tangible result, the Examiner must determine each standard individually. For a claim to be "useful," the claim must produce a result that is specific, and substantial. For a claim to be "concrete," the process must have a result that is reproducible. For a claim to be "tangible," the process must produce a real world result. Furthermore, the claim must be limited only to statutory embodiments.

Claims 1-6, 8-17, 21-26, 28-30, and 32-33 do not produce a tangible result. A tangible result requires that the claim must set forth a practical application to produce a real-world result. This rejection could be overcome by amendment of the claims to recite that a result of the method is outputted to a display or a memory or another computer on a network, or to a user, or by including a final resulting step of a physical transformation.

Claim Rejections - 35 USC § 102

The following rejection of claims under 35 USC 102 (e) using the Kalatz et al. (US P/N 6925393) reference has been modified to include claims not previously rejected under 35 USC 102 (e), pointing to new places in the cited prior art, and new arguments.

The following rejection of claims under 35 USC 102 (e) using the Otvos et al. (US P/N 6,518,069) reference has been modified to include claims not previously rejected under 35 USC 102 (e) using the Otvos et al. reference, new arguments, and to further clarify which claims are being rejected.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-6 and 8-16, 21-27, 29-30, and 32-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Kalatz et al. (US P/N 6925393).

Claims are drawn to a method for screening a subject for disorders of glucose metabolism, comprising measuring a glucose concentration profile, said glucose concentration profile comprising a plurality of blood glucose concentrations from at least after a glucose or meal challenge; generating a screening factor, wherein said screening factor comprises a mathematical representation of at least a plurality of glucose concentrations within said glucose concentration profile, wherein said screening factor is uniquely associated with a state of glucose metabolism disorder and classifying the subject into one of said states of glucose metabolism disorder based on evaluation of said screening factor, wherein said screening factor comprises an abstract representation of said glucose profile.

Claims 1, 2, 5, 22, 30, and 32 are taught by Kalatz et al. in the Abstract, in Fig. 3, and at col. 3, lines 66-67 and col. 4, lines 1-19, col. 7, lines 65-67, col. 8, lines 1-8, and col. 9, lines 34-54. Kalatz et al. in the Abstract teaches measuring a glucose profile, which comprises a time series and evaluating the profile according to at least one profile. Kalatz et al. further teaches at Fig. 3, generating a curve for representing a plurality of glucose concentrations, which reads on a mathematical representation of at least a plurality of glucose concentrations within said glucose concentration profile.

Additionally, the graph can be used as a screening factor for determining the state of the patient during the analysis, which reads on a screening factor comprising of a representation of a shape of said glucose concentration profile. Kalatz et al. further teaches at col. 7, lines 65-67, col. 8, lines 1-8, and specifically col. 9 the use of such a screening factor for determining the state of the subject, which may be outside of the normal range in a hypoglycemic or hyperglycemic state, which reads on using a screening factor for determining a state of glucose metabolism disorder. Additionally the system comprises a warning signal from a warning unit if the state of the subject lies outside the state of "normal," which reads on an abstract representation of said glucose concentration profile. Kalatz et al. at col. 4, lines 5-9, discusses hypoglycemic and hyperglycemia as predetermined classes where a subject would be classified as cited by the claims and reads on an unsupervised classification using a screening factor. Kalatz et al. teaches, in Fig. 3, parts of claim 5 wherein a parameter includes an area under the curve and over a defined period of time along with a maximum glucose concentration and a glucose concentration after an elapse of a predetermined time interval.

Claim 3, is taught by Kalatz et al. at col.7, lines 43-45, where Kalatz discusses actual values of blood glucose concentrations.

Claims 4, 8, and 9 are taught by Kalatz et al. at col. 7, lines 22-42. Kalatz et al. discusses how glucose values are proportionate, or relative as cited in the claim, to insulin amounts and are calculated accordingly on a linear scale.

Claim 6 is taught by Kalatz et al. at col. 3, lines 66-67, col. 4, lines 1-19, col. 7, lines 65-67, and col. 8, lines 1-21. Kalatz et al. discusses a range of normal values and outside this range calls for a warning signal to the subject as being in an abnormal condition. The administration of insulin discussed by Kalatz et al. is indicative of a subject who is diabetic.

Claims 10-14 and 25-27 are taught by Kalatz et al. at col. 7, lines 60-65, col. 9, lines 5-67 and col. 10, lines 1-20. Kalatz et al. teaches a pre-determined threshold value for a weighting factor, which includes the the possibility of assigning the weighting factor a value of zero. Claim 25 comprises several alternative limitations, such as a noninvasive, minimally invasive, and invasive blood glucose analyzer. Kalatz et al. teaches a minimally and invasive blood glucose analyzer.

Claims 15-16 and 29 are taught by Kalatz et al. as described above for claim 1 and at col. 7, lines 60-65, col. 9, lines 5-67 and col. 10, lines 1-20. Kalatz et al. at col. 9, lines 52-60 discusses using empirical studies to supplement data for determining a parameter value, which reads on wherein missing data are supplied from historical data for determining parameter and/or weighting values

Claim 21 is taught by Kalatz et al. at col. 3, lines 66-67 and col. 4, lines 1-19.

Claims 23-24 are taught by Kalatz et al. at col. 8, lines 9-21 and col. 10, lines 15-20. Kalatz et al. discusses advising the subject of screening results through a display which advises the subject on the amount of insulin to administer and allowing the patient to control the concentration levels.

Claim 33 is taught by Kalatz et al. as described above for claim 1 and at col. 9, lines 5-54. Kalatz et al. discloses an evaluation unit, which generates a screening factor which can be a curve that is used by the evaluation unit to determine the glucose state of the patient, which reads on a screening factor comprised of a result of a supervised classification, wherein the evaluation unit performs the supervised classification in its determination of the glucose state based on the generated graph.

Thus, Kalatz et al. anticipates claims 1-6 and 8-16, 21-27, 29-30, and 32-33.

Claims 1-16, 21-26, 28-30, and 32-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Otvos et al. (US P/N 6,518,069).

Claims are drawn to a method for screening a subject for disorders of glucose metabolism, comprising measuring a glucose concentration profile, said glucose concentration profile comprising a plurality of blood glucose concentrations from at least after a glucose or meal challenge; generating a screening factor, wherein said screening factor comprises a mathematical representation of at least a plurality of glucose concentrations within said glucose concentration profile, wherein said screening factor is uniquely associated with a state of glucose metabolism disorder and classifying the subject into one of said states of glucose metabolism disorder based on evaluation of said screening factor.

Otvos et al. teaches claims 1-6, 15-16, 22, 23, and 33 at the abstract, Fig. 1, Fig. 2, col. 2, lines 45-50 and lines 55-65, col. 3, lines 38-55, at col. 4, lines 12-35, and at col. 8 lines 55-67. Otvos et al. describes deriving a reference spectrum from NMR for a

known glucose concentration sample, which reads on measuring a glucose concentration profile. Otvos et al. further describes obtaining a patient blood sample and determining the glucose concentration, which inherently the blood sample is taken at some point after a glucose or meal challenge, which the claims are broadly interpreted as meaning at any point after a glucose or meal challenge. Otvos et al. teaches deriving a NMR data set from the blood sample that is used to evaluate the blood sample for screening for diabetes, which reads on generating a screening factor that is a mathematical representation of at least a plurality of glucose concentrations within said glucose profile and is uniquely associated with a state of glucose metabolism disorder and classifying the subject into one of said states of glucose metabolism disorder on evaluation of said screening factor. Additionally, the generation of the NMR data set also reads on a screening factor, which comprises an abstract representation of said glucose concentration profile. Otvos et al. at col. 4, teaches blood glucose concentrations comprise a time series, are actual values, relative values, and wherein said screening factor is generated using a parameter, wherein said parameter includes maximum glucose concentrations and an area under the curve of the glucose profile as in Fig. 1. Otvos et al. also describes classifying by comparing said screening factor with a corresponding predetermined value and/or a range of values indicative of either a normal condition or one of a plurality of abnormal conditions. Otvos et al. teaches at col. 4, lines 18-23 using referenced coefficients for actual or relative values when generating an evaluation factor, which reads on a screening factor that uses actual or relative values for parameters and weights. Otvos et al. at col. 8 discloses acquiring

reference data to further evaluate blood levels, which reads on missing data that is supplied from historical data. Otvos et al., at col. 3, discloses the use of an NMR-based analysis to generate the screening factor and classify the patient, which reads on a supervised classification of the screening factor.

Otvos et al. teaches claims 8-14, 21-22, and 25-26 at col. 8 – col. 14. Otvos et al. describes determining the scaling parameters (i.e. weighting values) on a linear or non-linear scale and using pre-determined threshold values. Otvos et al. discloses a computer programmed for executing the said method steps.

Otvos et al. teaches claim 23 and 24 at col. 15, lines 25-33. Otvos et al. teaches generating a report that includes all the screening information and results and discusses throughout the specification of the results being given to the doctor, who will inherently advise the patient on the screening results and health risks.

Otvos et a. teaches claim 28 at the abstract. Otvos et al. teaches obtaining blood glucose concentrations by way of NMR, which reads on a noninvasive blood glucose analyzer.

Otvos et al. teaches claim 29, 30, and 32 at Fig. 1 and Fig. 2. Otvos et al. teaches the screening factors, which are NMR values, which show numerical values and representations of a shape of said glucose concentration profiles by the shape of the graphs.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 28 is being rejected under 35 U.S.C. 103(a) as being unpatentable over Kalatz as applied to claims 1-13, 16, and 21-27 above, and further in view of Proniewicz et al. (US P/N 6853854).

Claim 28 is directed to methods for obtaining glucose values wherein the method comprises a noninvasive analyzer.

Kalatz does not specifically teach a noninvasive analyzer for obtaining glucose values, but does teach the other limitations of a minimally and invasive blood glucose analyzer.

Proniewicz et al., at col. 2, lines 1-67, teaches using a noninvasive analyzer for obtaining glucose values and describes its advantage to reducing the possibility of infection and unseemly scarring, which are some of the risks involved in blood withdrawl.

It would have been obvious to one of ordinary skill in the art at the time of the instant application to combine the methods for obtaining and evaluating glucose profiles taught by Kalatz et al. with obtaining glucose values noninvasively as taught by Proniewicz et al. because it is a procedure that has been desirable to have and would be obviously more favorable to many patients who may benefit from this technology by reducing the risk for infection and unseemly scarring.

Provisional Obviousness Type Double Patenting

The following rejection has been maintained as stated below.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

An obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but an examined application claim is not patentably distinct from the reference claim(s) because the examined claim is either anticipated by, or would be obvious over, the reference claim(s). see, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985).

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8, of copending Application No. 10/702710, which anticipates claim 1 of the instant application. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim

8 of copending application No. 10/702710 is a species of claim 1 of the instant application. For example, step 1 of both claims measure a glucose profile. Claim 8 of copending application No. 10/702710, step 1, is a species of step 1 of the instant application because it does not state measuring a glucose profile, but states measuring at least a portion of a glucose profile, but it also is comprised of the identical limitation found in step 1 of the instant application, wherein the portion is comprised of a plurality of blood glucose values as is the limitation of measuring a glucose profile of step 1 of claim 1 in the instant patent application. In addition, step 2 of claim 8 of copending application No. 10/702710 comprises extracting features from said at least portion of said profile and using the features for classifying a subject's state of glucose metabolism comprising determining classification of the subject to a particular disorder of glucose metabolism wherein it defines extracting features of the glucose profile as comprising any mathematical transformation that aids in the classification of the subject, which reads on the step 2 limitation of claim 1 in the instant patent application, which comprises a mathematical representation that is a generated screening factor. Additionally the extraction of features reads on an abstract representation of a glucose concentration profile as cited in step 2 of amended claim 1 in the instant application. Step 2 of the instant patent application also has the limitation of classifying the subject into a state of glucose metabolism disorder.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Sims, whose telephone number is (571)-272-7540.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ram Shukla can be reached via telephone (571)-272-0735.

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the Central PTO Fax Center. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993) (See 37 CFR § 1.6(d)). The Central PTO Fax Center number is (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

// Jason Sims //

Primary Patent Examiner
5/29/07